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June 27, 2012

Via Facsimile

Hon. P. Kevin Castel
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

12 Civ 2227 (PKC)
10 Civ 7249 (PKC)

Re: Ahmed Mohamed v. Metropolitan Life Insurance Company
Civil Action No.: 12-cv-2227

Dear Judge Castel:

This office represents the defendant, Metropolitan Life Insurance Company, in the above-referenced matter. This letter is respectfully submitted in compliance with Your Honor's Order dated June 22, 2012 directing MetLife to submit a status update regarding its claim review on remand. (Docket No.: 8).

At the outset, we would like to clarify the applicable time requirements as discussed in our letter to the Court dated May 31, 2012, which we submitted to the Court pursuant to Your Honor's May 30, 2012 Order. (Docket No.: 4). At the time that letter was submitted, we had not had detailed discussions with our client about the status of the review on remand at that point, and therefore provided a general interpretation of the applicable Department of Labor ("DOL") regulations, rather than a specific application of these regulations to the facts of this particular review of plaintiff Ahmed Mohamed's ("Mohamed") claim on remand.

As we stated in our May 31, 2012 letter, there are no specific DOL regulations concerning a claim administrator's review pursuant to a court ordered remand under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.* ("ERISA"). However, MetLife is treating its review on remand as an initial claim review and is proceeding in accordance with DOL time requirements applicable to such a review. As noted in our May 31, 2012 letter, pursuant to 29 § C.F.R. 2560.503-1(f)(3) a claim administrator has forty-five (45) days to decide an initial claim for benefits. "[T]his period may be extended by the plan for up to 30 days, provided that the plan administrator both determines that such an extension is necessary due to matters beyond the control of the plan and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the plan expects to render a decision." *See* 29 §C.F.R. 2560.503-1(f)(3). This additional period of time may be tolled under 29 §C.F.R. §2560.503-1(f)(4), which provides that if a period of time is extended as permitted under the applicable DOL regulations "due to a claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review *shall be tolled* from the date on which the

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notification of the extension is sent to the claimant until the date on which the claimant responds to the request for additional information.”

As we also noted in our May 31, 2012 letter, Mohamed first advised MetLife on April 2, 2012 that he would not be submitting any further information for MetLife to consider on remand and thus, MetLife’s time to render a timely determination runs from that date. By letter dated May 7, 2012, which was within the initial 45 day time period, MetLife requested information from Mohamed that it needed to render its determination on remand, including a request that Mohamed participate in an in-person field interview; a legible copy of Mohamed’s March 12, 2007 EMG report including the findings and conclusions; information regarding Mohamed’s Other Income benefits (i.e. Social Security Disability Income Benefits and Worker’s Compensation Benefits); the status of Mohamed’s Worker’s Compensation benefits along with copies of any change in benefit notices and/or settlement agreement received since January 1, 2009; and signed authorizations to enable MetLife to obtain the information requested in the letter directly from the record custodians if Mohamed was unable to provide these materials himself. Although MetLife did not explicitly advise Mohamed in that letter that an extension of time to complete its review on remand was required, this was implied by the request for this information as the initial 45 day period was set to run on May 17, 2012, 10 days later. MetLife therefore proceeded under the assumption that it would have 40 days from the date it received the information it requested in its May 7 letter to decide the claim (10 days remaining in the initial 45 day review period plus the 30 day extension) pursuant to DOL regulations.

Prior to the initial conference with the Court in this matter, MetLife had also been in contact with Mohamed’s counsel in an attempt to conduct a full and fair review of Mohamed’s claim on remand and has continued this dialogue throughout its review. Indeed, pursuant to Your Honor’s Order dated May 30, 2012, Mohamed, with counsel on the line, participated in a telephone interview conducted by a MetLife Field Representative on June 8, 2012. In addition, on or around May 30, 2012, MetLife received a copy of the raw data from Mohamed’s EMG, which had been requested in MetLife’s May 7, 2012 letter. MetLife then followed up with Mohamed’s counsel by letter dated June 1, 2012 explaining that it still needed a legible copy of the EMG report, which was expected to include a summary and/or conclusion drawn from the EMG’s findings. Mohamed’s counsel provided MetLife with a legible copy of the EMG report on June 13, 2012. On or around June 11, 2012, Mohamed’s counsel provided MetLife with a list of Workers’ Compensation benefit payments that were deposited into Mohamed’s bank account over the last few months. However, Mohamed did not provide MetLife with his benefit notices, including changes in benefits, if any, which MetLife had previously requested in its May 7, 2012 letter. On June 15, 2012, after receiving a signed medical authorization from Mohamed on June 4, MetLife requested the outstanding Workers’ Compensation information directly from the Workers’ Compensation carrier, as well as the medical information the carrier compiled during its own review of Mohamed’s Workers’ Compensation claim. To date, MetLife has not received this additional information, which it needs to fully assess Mohamed’s functionality throughout the relevant time period. Nevertheless, MetLife plans to render a claim determination within 40 days from June 13, 2012, the date it finally received a legible copy of the EMG report, on July 23, 2012, unless MetLife finds that it needs an additional extension of time, which Mohamed will be notified about in writing, if necessary.

MetLife has been in communication with Mohamed’s counsel throughout the claim review process, engaging in a consistent dialogue in an effort to obtain the necessary information for it to conduct a full and fair review and thus, has been in substantial compliance with all applicable DOL regulations. *See Robinson v.*

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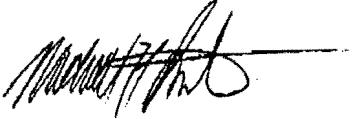
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Metropolitan Life Ins. Co., 2007 WL 3254397, *2 (S.D.N.Y. 2007); *see also Pava v. Hartford Life & Accident Ins. Co.*, 2005 WL 2039192, *9-10 (E.D.N.Y. Aug. 24, 2005).

I greatly appreciate your attention to this matter.

Respectfully submitted



Michael H. Bernstein
Sedgwick LLP

cc: Michael Yoeli, Esq. (*via Facsimile*)

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NAME

Honorable P. Kevin Castel, U.S.D.J.

COMPANY

U.S. District Court

Southern District of New York

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Cc:

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OUR FILE NO.: 00584-007645

RE: *Ahmed Mohamed v. Metropolitan Life Insurance Company*
Civil Action No.: 12-cv- 2227 and 10-cv-7249

MESSAGE:

Please see the attached.

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